

proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective January 2, 1996.

#### Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over population of less than 50,000.

SIP approvals under sections 110 and 301(a) and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S. Ct. 1976); 42 U.S.C. 7410 (a)(2).

#### Unfunded Mandates

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Part D of the Clean Air Act. These rules may bind State, local, and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rules being approved by this action will impose no new requirements because affected sources are already subject to these regulations under State law. Therefore, no additional costs to

State, local, or tribal governments or to the private sector result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of \$100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this action from review under Executive Order 12866.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: October 19, 1995.

John Wise,

*Acting Regional Administrator.*

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

#### PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

#### Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(225) to read as follows:

##### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(225) New and amended regulations for the following APCDs were submitted on October 13, 1995 by the Governor's designee.

(i) Incorporation by reference.

(A) South Coast Air Quality Management District.

(I) Rules 1130 and 1136 adopted September 8, 1995.

\* \* \* \* \*

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#### 40 CFR Part 52

[CA 162-1-7250c; FRL-5321-3]

#### Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Interim Final Determination That State Has Corrected the Deficiencies

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final determination.

**SUMMARY:** Elsewhere in today's Federal Register, EPA published a direct final rule fully approving revisions to the California State Implementation Plan (SIP). The revisions concern South Coast Air Quality Management District's (SCAQMD) Rules 1130 and 1136. On that date, EPA also published a proposed rulemaking to provide the public with an opportunity to comment on EPA's action. If a person submits adverse comments on EPA's proposed action within 30 days of publication of the proposed and direct final actions, EPA will withdraw its direct final action and will consider any comments received before taking final action on the State's submittal. Based on the proposed full approval, EPA is making an interim final determination by this action that the State has corrected the deficiency for which a sanctions clock began on January 20, 1994. This action will defer the application of the offset sanction and defer the application of the highway sanction. Although this action is effective upon publication, EPA will take comment. If no comments are received on EPA's proposed approval of the State's submittal, the direct final action published in today's Federal Register will also finalize EPA's determination that the State has corrected the deficiency that started the sanctions clock. If comments are received on EPA's proposed approval and this interim final action, EPA will publish a final document taking into consideration any comments received.

**DATES:** This interim final determination is effective on October 31, 1995. Comments must be received by November 30, 1995.

**ADDRESSES:** Comments should be sent to: Daniel A. Meer, Rulemaking Section (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

The state submittal and EPA's analysis for that submittal, which are the basis for this action, are available for public review at the above address and at the following locations:

Environmental Protection Agency, Air Docket (6102) 401 "M" Street, SW., Washington 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812-2815

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765-4812.

**FOR FURTHER INFORMATION CONTACT:**

Daniel A. Meer, Rulemaking Section (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1185.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On September 14, 1992, the State submitted SCAQMD's Rule 1130, Graphics Arts, and on May 13, 1993 the State submitted SCAQMD's Rule 1136, Wood Products Coating. EPA published a limited approval/limited disapproval for these rules in the Federal Register on April 14, 1994; 59 FR 17697. EPA's disapproval action started an 18-month clock for the application of one sanction (followed by a second sanction 6 months later) under section 179 of the Clean Air Act (Act) and a 24-month clock for promulgation of a Federal Implementation Plan (FIP) under section 110(c) of the Act. The State subsequently submitted revised SCAQMD's Rules 1130 and 1136 on October 16, 1995. EPA has taken direct final action on these submittals pursuant to its modified direct final policy set forth at 59 FR 24054 (May 10, 1994). In the Rules section of today's Federal Register, EPA issued a direct final full approval of the State of California's submittal of SCAQMD's Rules 1130, Graphic Arts, and 1136, Wood Products Coating. In addition, in the Proposed Rules section of today's Federal Register, EPA proposed full approval of the State's submittal.

Based on the proposed and direct final approval, EPA believes that it is more likely than not that the State has corrected the original disapproval deficiencies. Therefore, EPA is taking this final rulemaking action, effective on publication, finding that the State has corrected the deficiencies. However, EPA is also providing the public with an opportunity to comment on this final action. If, based on any comments on this action and any comments on EPA's proposed full approval of the State's submittal, EPA determines that the State's submittal is not fully approvable and this final action was inappropriate, EPA will either propose or take final

action finding that the State has not corrected the original disapproval deficiencies. As appropriate, EPA will also issue an interim final determination or a final determination that the deficiency has not been corrected. Until EPA takes such an action, the application of sanctions will continue to be deferred and or stayed.

This action does not stop the sanctions clock that started for these areas on May 16, 1994. However, this action will defer the application of the offsets sanction and will defer the application of the highway sanction. See 59 FR 39832 (Aug. 4, 1994). If EPA's direct final action fully approving the State's submittal becomes effective, such action will permanently stop the sanctions clock and will permanently lift any applied, stayed or deferred sanctions. If EPA must withdraw the direct final action based on adverse comments and EPA subsequently determines that the State, in fact, did not correct the disapproval deficiency, EPA will also determine that the State did not correct the deficiency and the sanctions consequences described in the sanctions rule will apply. See 59 FR 39832, to be codified at 40 CFR 52.31.

**II. EPA Action**

EPA is taking interim final action finding that the State has corrected the disapproval deficiency that started the sanctions clock. Based on this action, application of the offset sanction will be deferred and application of the highway sanction will be deferred until EPA's direct final action fully approving the State's submittal becomes effective or until EPA takes action proposing or finally disapproving in whole or part the State submittal. If EPA's direct final action fully approving the State submittal becomes effective, at that time any sanctions clocks will be permanently stopped and any applied, stayed or deferred sanctions will be permanently lifted.

Because EPA has preliminarily determined that the State has an approvable plan, relief from sanctions should be provided as quickly as possible. Therefore, EPA is invoking the good cause exception under the Administrative Procedure Act (APA) in not providing an opportunity for comment before this action takes effect.<sup>1</sup> 5 U.S.C. 553(b)(B). EPA believes that notice-and-comment rulemaking before the effective date of this action is impracticable and contrary to the public

interest. EPA has reviewed the State's submittal and, through its proposed and direct final action is indicating that it is more likely than not that the State has corrected the deficiency that started the sanctions clock. Therefore, it is not in the public interest to initially impose sanctions or to keep applied sanctions in place when the State has most likely done all that it can to correct the deficiency that triggered the sanctions clock. Moreover, it would be impracticable to go through notice-and-comment rulemaking on a finding that the State has corrected the deficiency prior to the rulemaking approving the State's submittal. Therefore, EPA believes that it is necessary to use the interim final rulemaking process to temporarily stay or defer sanctions while EPA completes its rulemaking process on the approvability of the State's submittal. Moreover, with respect to the effective date of this action, EPA is invoking the good cause exception to the 30-day notice requirement of the APA because the purpose of this document is to relieve a restriction. See 5 U.S.C. 553(d)(1).

*Unfunded Mandates*

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with the proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the state and any affected local or tribal governments have elected to adopt the program provided for under Part D of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of \$100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

The Office of Management and Budget (OMB) has exempted this action from review under Executive Order 12866.

<sup>1</sup> As previously noted, however, by this action EPA is providing the public with a chance to comment on EPA's determination after the effective date and EPA will consider any comments received in determining whether to reverse such action.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This action temporarily relieves sources of an additional burden potentially placed on them by the sanctions provisions of the Act. Therefore, I certify that it does not have an impact on any small entities.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental regulations, Reporting and recordkeeping requirements, Ozone, Volatile organic compounds.

Authority: 42 U.S.C. 7401-7671q.

Dated: October 19, 1995.

John Wise,

*Acting Regional Administrator.*

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#### 40 CFR Parts 52 and 81

[CT23-1-7084; FRL-5296-5]

#### Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Connecticut

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** On September 30, 1994, the Connecticut Department of Environmental Protection (CT DEP), submitted a request to redesignate the Hartford/New Britain/Middletown area from nonattainment to attainment for carbon monoxide (CO). Under the Clean Air Act as amended in 1990 (CAA), designations can be revised if sufficient data is available to warrant such revisions. In this action, EPA is approving the Connecticut request because it meets the redesignation requirements set forth in the CAA.

In addition, EPA is approving two related State Implementation Plan (SIP) submissions by Connecticut DEP. On January 12, 1993, Connecticut DEP submitted a final 1990 base year emission inventory for CO emissions,

which includes emissions data for all sources of CO in Connecticut's two CO nonattainment areas (the Hartford/New Britain/Middletown area and the Connecticut portion of the New York/New Jersey/Connecticut Consolidated Metropolitan Statistical Area (CMSA)). On January 12, 1993, January 14, 1993, September 30, 1994 and August 1, 1995, Connecticut DEP submitted an oxygenated fuel program and revisions for both CO nonattainment areas. In this action, EPA is approving the CO emissions inventory for both areas and the oxygenated fuels program only as it applies to the Hartford/New Britain/Middletown nonattainment area.

**DATES:** This final rule will be effective January 2, 1996 unless critical or adverse comments are received by November 30, 1995. If the effective date is delayed, timely notice will be published in the Federal Register.

**ADDRESSES:** Written comments should be sent to Susan Studlien, Acting Director, at the EPA Regional Office listed below. Copies of the redesignation request and the State of Connecticut's submittals are available for public review during normal business hours at the addresses listed below.

Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, and; Environmental Protection Agency, One Congress Street, Boston, MA 02203.

**FOR FURTHER INFORMATION CONTACT:** Damien Houlihan of the EPA Region I Air, Pesticides and Toxics Management Division at (617) 565-3266.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On March 31, 1978, (See 43 FR 8962), EPA published rulemaking which set forth attainment status for all States in relation to the National Ambient Air Quality Standards (NAAQS). The area of Hartford/New Britain/Middletown (the "Hartford area") was designated as nonattainment for Carbon Monoxide through this rulemaking notice. In a letter dated March 14, 1991 from the Connecticut Department of Environmental Protection to EPA Administrator, the State recommended that the area be classified as Category 3 nonattainment. Because the area had a design value of 9.7 ppm, the area was considered "moderate" nonattainment under the provisions outlined in sections 186 and 187 of the CAA. (See 56 FR 56694 (Nov. 6, 1991) and 57 FR 56762 (Nov. 30, 1992), codified at 40 CFR part 81, § 81.307.). The CAA established an attainment date of December 31, 1995, for all moderate CO

areas. The Hartford area has ambient monitoring data showing attainment of the CO NAAQS, since 1988. Therefore, in an effort to comply with the CAA and to ensure continued attainment of the NAAQS, on September 30, 1994 the State of Connecticut submitted a CO redesignation request and a maintenance plan for the Hartford area. Connecticut submitted evidence that a public hearing was held on August 17, 1994.

##### II. Evaluation Criteria

Section 107(d)(3)(E) of the 1990 Clean Air Act Amendments provides five specific requirements that an area must meet in order to be redesignated from nonattainment to attainment.

1. The area must have attained the applicable NAAQS;
2. The area must have a fully approved SIP under section 110(k) of CAA;
3. The air quality improvement must be permanent and enforceable;
4. The area must have a fully approved maintenance plan pursuant to section 175A of the CAA;
5. The area must meet all applicable requirements under section 110 and Part D of the CAA.

##### III. Review of State Submittal

On October 28, 1994, Region I determined that the information received from the CT DEP constituted a complete redesignation request under the general completeness criteria of 40 CFR part 51, appendix V, §§ 2.1 and 2.2.

The Connecticut redesignation request for the Hartford/New Britain/Middletown area meets the five requirements of section 107(d)(3)(E), noted above. The following is a brief description of how the State has fulfilled each of these requirements.

##### 1. Attainment of the CO NAAQS

Connecticut has quality-assured CO ambient air monitoring data showing that the Hartford area has met the CO NAAQS. The Connecticut request is based on an analysis of quality-assured monitoring data which is relevant to the maintenance plan and to the redesignation request. To attain the CO NAAQS, an area must have complete quality-assured data showing no more than one exceedance of the standard over at least two consecutive years. The ambient air CO monitoring data for calendar year 1989 through calendar year 1993, relied upon by Connecticut in its redesignation request, shows no violations of the CO NAAQS in the Hartford area. The most recent ambient CO data shows no exceedances in the calendar year 1994 and one exceedance